

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

WILLIAM HAMBY,	)	
	)	
Plaintiff,	)	Case No. 3:12-1239
	)	Judge Trauger/Bryant
v.	)	<b>Jury Demand</b>
	)	
VALERIE McCULLOUGH, et al.,	)	
	)	
Defendants.	)	

TO: The Honorable Aleta A. Trauger

**REPORT AND RECOMMENDATION**

Plaintiff William Davidson Hamby, Jr. has filed his "Motion To Dismiss Complaint" (Docket Entry No. 43), by which the plaintiff seeks voluntarily to dismiss his complaint for the reasons stated in his motion.

The defendants have not responded in opposition, and the period within which they were required to do so has expired.

For the reasons stated below, the undersigned Magistrate Judge recommends that plaintiff Hamby's motion to dismiss his complaint be granted.

Rule 41(a)(2) of the Federal Rules of Civil Procedure provides that, after an opposing party files an answer, an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper. Here, plaintiff Hamby has moved for leave to dismiss his complaint voluntarily, and his motion has not been opposed by defendants. Given the lack of opposition, the undersigned Magistrate Judge finds that plaintiff's

motion should be granted and his complaint dismissed without prejudice pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure.

**RECOMMENDATION**

For the reasons stated above, the undersigned Magistrate Judge RECOMMENDS that plaintiff's motion to dismiss his complaint (Docket Entry No. 43) be GRANTED and that the complaint be DISMISSED without prejudice.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

**ENTERED** this 23rd day of April 2013.

s/ John S. Bryant  
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JOHN S. BRYANT  
United States Magistrate Judge